

**COMMISSION CONFERENCE****JUNE 18, 2002**

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Present: Mayor Naugle  
Commissioners Hutchinson, Katz, Moore, and Smith

Also Present: City Manager, City Attorney, City Clerk and Police Sergeant

**I-A – City Attorney Recruitment**

The City Commission was scheduled to interview the three finalists for the position of City Attorney – Maria J. Chiaro, Lindsey A. Payne, and Harry Stewart. Mayor Naugle noted that a large package of “eleventh hour” information had been provided just before the meeting, which he had not had an opportunity to review. Commissioner Katz did not think it added much. Commissioner Smith pointed out that this could be deferred if it would make Mayor Naugle more comfortable. Mayor Naugle was prepared to go forward without benefit of this additional information.

The City Manager apologized for the late information, but the verification of previously provided material had not been provided until late last night. He summarized the new information, which included a synopsis about verification of education and employment history, and salary history. In addition, a review from the Florida Department of Law Enforcement had been provided, and none of the finalists had any criminal backgrounds. He stated that credit histories had also been checked, and nothing of alarm had been discovered about any of the finalists.

Mayor Naugle suggested that each finalist be allowed to make a 5-minute statement, followed by questions from the Commission. Commissioner Katz suggested that each candidate be questioned separately, while the others were out of the room. It was agreed.

*Mr. Harry Stewart* said that he had been practicing law for 17 years in the local government sector, and he had a private practice for 11 years. He stated that during the first 17 years representing local government, he had served 2 years as an Assistant County Attorney and 6 years as the Broward County Attorney. He had also served as the first, in-house County Attorney in Orange County, and he had been in private practice for the past 11 years. Mr. Stewart advised that he preferred government work, and he had provided a list of some of the governmental entities he had represented in his private practice.

Mr. Stewart viewed this position as an opportunity to get back into the type of work he really enjoyed. He believed his 28 years of legal and management experience made him uniquely qualified for the position of City Attorney of Fort Lauderdale. He advised that he was an AV-rated Attorney by Mortendale Hubble, which was the highest rating possible, and he thought he was a creative problem solver.

Mr. Stewart stated that the last thing he would want to tell the Commission, as City Attorney, would be “no.” However, if something could not be done one way, he felt he could lead the Commission through the maze of laws to help implement its policies. Mr. Stewart advised that he was an advocate and a litigator, and he had always been a hand-on Attorney, handling over 200 trials at the circuit court level and over 70 appellate cases. He stated that he was also relatively good at negotiations, and he had been a negotiator on the governmental side in various counties. In fact, he had helped convince Disney World that it should pay its fair share of impact fees to the tune of \$16.5 million. Another negotiation he had handled had been an enforcement action in Orange County relating to a landfill and alleged impact on adjacent domestic wells. In that case, Mr. Stewart said a good resolution had been reached.

Mr. Stewart discussed some of his other cases, some of which involved public records laws, and he said his resume spoke directly to his specific areas of expertise. He stated that he was drawn to this position because he enjoyed government work and issues, and being a part of and making a difference in a community. He felt this job would be an opportunity for him to get back to his personal and professional preferences, having been raised in South Florida and having worked here for many years.

*Ms. Lindsey Payne* expressed appreciation for this opportunity to elaborate on her resume. She stated that had worked in cities for 21 years, in all phases of municipal work, including contracts, resolutions, negotiations, and advising all levels of City administrators, Commissioners and Mayors. She stated that since she had left the City of Fort Lauderdale, she had rewritten the sign code in Dania Beach, as well as its special exception zoning ordinance, and the variance and board of adjustment procedures.

Ms. Payne said that she had also worked for the City of Plantation and had rewritten that community's code enforcement ordinances, property maintenance codes, and trained personnel in code team enforcement. In fact, she had modeled Plantation's process after the process used in Fort Lauderdale. Ms. Payne had also worked in Boynton Beach, representing the CRA, which had led to substantial rewriting of ordinances connected with the CRA.

Ms. Payne stated that she had litigation experience from the county courts, to the circuit courts, to the district courts of appeal, and she had litigated in the federal court system. She reported that the subjects she had litigated had been many and varied, including adult entertainment, code enforcement appeals, signage issues, development issues, pawnshops, employment matters, vendor contracts, begging, and homeless issues. Ms. Payne reported that she had also expanded her litigation experience to include litigation of labor arbitration issues, and she was the Police Legal Advisor for Pembroke Pines, so she was handling forfeiture cases as well.

Ms. Payne referred to the work she had done for city commissions in the past. At present, she worked with the Cities of Miramar, North Lauderdale, Wilton Manors, Lighthouse Point, Lauderdale-by-the-Sea, Boynton Beach, Sea Ranch Lakes, the Pine Tree Water Control District, and the Fort Lauderdale Housing Authority. In the past, she had worked for the Cities of Plantation, Dania Beach and Fort Lauderdale. Ms. Payne reported that she handled a number of advisory boards for the cities she represented, including the Code Enforcement Boards of Pembroke Pines and Lighthouse Point, the Board of Adjustment for Wilton Manors and Oakland Park, the Planning & Zoning Board of Wilton Manors and sometimes Pembroke Pines, the Charter Review Board for Pembroke Pines, the Unsafe Structures Board of Oakland Park, and the CRA Board for Boynton Beach, which also served as the Planning & Zoning Board for the CRA District.

Ms. Payne advised that she representing city staff and/or city management in the prosecution of cases before the Civil Service Board for the Cities of North Lauderdale and Oakland Park, as well as the Disciplinary Action Board for the City of Pembroke Pines. She had handled cases ranging from the suspension of employees to the termination of employees to the failure to promote employees. Ms. Payne noted that in Fort Lauderdale, she had prosecuted cases before the Code Enforcement Board and Civil Service Boards, and she assisted staff with the presentation of cases to the Unsafe Structures & Housing Appeals Board on an as needed basis. In addition, she had assisted with the City's previous Sign Advisory Board, as well as the Historic Preservation Board, and the Board of Adjustment and Planning & Zoning Board, when necessary.

Ms. Payne had handled numerous arbitration cases, and she had done a great deal of labor arbitration work since leaving the City of Fort Lauderdale in the Cities of Boynton Beach and Pembroke Pines. Ms. Payne said she would consider it an honor to be the City Attorney of Fort Lauderdale.

*Ms. Maria Chiaro* said that when she had first seen the advertisement for this position, she had thought Fort Lauderdale would be a "dream city." After having spoken with each of the Commissioners, she had realized that their individual issues were matters in which she had experience; that they were all truly passionate in their goals; and, that she could help them move forward to reach those goals. Ms. Chiaro stated that her resume recounted her background and experience in detail, and she advised that she had been admitted to the Supreme Court of the United States and was certified by the Florida Bar Association in local government law.

Ms. Chiaro believed Fort Lauderdale's law department would be changing, and she felt it was important there be someone who could help implement those changes and move the City forward. She stated that Fort Lauderdale would switch to a full-time City Attorney, which meant that the way litigation was handled would change and, in her current position, she directly supervised 6 Attorneys with 28 Attorneys in her office. She handled all the human resource issues in the office, and she believed she was particularly well suited to help Fort Lauderdale's law department grow.

Ms. Chiaro advised that some of the substantive issues she had been dealing with lately included sophisticated financial matters, and she had written the legislation relating to the parking revenue system in the City of Miami. She stated that Miami's redevelopment agency was expanding its boundaries, and there were exciting issues involving Watson Island. Ms. Chiaro said she had worked on code enforcement and charter review issues in the Cities of Hollywood and Naples as that community's City Attorney. She stated that she had done many of the things that the City of Fort Lauderdale was doing, and she believed they would require "moving out the envelope." Ms. Chiaro felt she would be able to do that, and she would consider it an honor to serve as Fort Lauderdale's City Attorney and, no matter what decision was made today, she had found this process to be a wonderful experience.

Commissioner Katz inquired about Ms. Chiaro's eminent domain experience. Ms. Chiaro said she had gone through some eminent domain issues, and she usually worked with outside counsel in this regard. She thought that if the City had significant eminent domain issues, there should probably be an in-house attorney to specifically address those matters or, at least, an in-house attorney should work with outside counsel that specialized in eminent domain to avoid massive legal fees.

Commissioner Katz asked if Ms. Chiaro had any experience with respect to purchasing matters. Ms. Chiaro replied that she was currently rewriting the Purchasing Code in Miami. She explained that purchasing matters had recently been removed from the Charter in the City of Miami and would now be part of the Code of Ordinances. She found it exciting to be bringing that Code into the 21<sup>st</sup> Century in its entirety rather than just modifying one or two aspects.

Commissioner Katz inquired about any injunctive proceedings in the area of planning and zoning. Ms. Chiaro advised that she had come up as a litigator, and she had done some land use civil rights litigation, so she was familiar with it. In fact, the Attorneys in her office were currently handling some significant land use matters. Commissioner Katz asked her about her feelings as to overlay districts, and Ms. Chiaro thought they were a wonderful legal mechanism that worked very well under certain circumstances. In fact, that mechanism worked very well in the City of Naples to address a small area in the downtown.

Commissioner Katz thought some people were looking to change the City's Code in terms of mixed uses and smart growth principles. She wondered how Ms. Chiaro might handle something that that. Ms. Chiaro advised that she had participated in charrettes in the cities in which she had worked and had found them to be a good tool for gathering the information necessary to create desirable development. She felt it was necessary to move toward such changes in a method that worked for the community involved.

Commissioner Katz asked Ms. Chiaro if she had worked with CRAs in the past. Ms. Chiaro replied that the CRA had already been in place when she had gone to Hollywood, although it had just been getting started. In Naples, she had helped in the creation of the CRA, and there were two separate CRAs in Miami that were moving forward quickly. She believed the activities there would change the face of the City of Miami, and she was intricately involved in that process along with 4 other attorneys in her office.

Mayor Naugle asked if the County was cooperative in terms of the CRA boundary changes being proposed in Miami. Commissioner Katz noted that the County had certain powers over cities, and she wondered what Ms. Chiaro felt was the appropriate role of the counties from a legal standpoint. Ms. Chiaro advised that State law dealt with how many rights counties gave to local agencies, and Dade County had some specific overlays. She felt cooperation from counties was important, but counties stood to lose some TIF monies. Mayor Naugle asked if the County had agreed to the boundary change in Miami. Ms. Chiaro believed it would.

Commissioner Smith said that the City of Fort Lauderdale had experienced more than its "15 minutes of fame" when it came to lawsuits in recent years, with its share of police liability cases, workmen's compensation claims, an environmental lawsuit, some land use lawsuits, and some highly visible discrimination cases. He asked Ms. Chiaro if she had a philosophy about cases when municipalities were sued. Ms. Chiaro replied that different strategies were necessary in different types of lawsuits, although she had a philosophy about municipal litigation. She explained that there were sometimes issues of principle involved, and the cost of defending lawsuits sometimes got mixed up with those principles. She felt decisions about litigation had to be based on what was right, and she would tend to fight for principle rather than settle for practical reasons.

Commissioner Smith asked Ms. Chiaro to tell the Commission about her family and what she liked to do in her spare time. Ms. Chiaro said she brought roses to her office every Monday from her own garden, and her daughter was a landscape architect. Her son was the manager of the Cheesecake Factory and would soon be moving to its new Las Olas Boulevard location. Ms. Chiaro also said that she usually worked until 8 or 9 p.m. every night.

Commissioner Moore asked Ms. Chiaro if she could state in one sentence what she thought a City Attorney should do. Ms. Chiaro felt a City Attorney should provide legal advice to the City Commission, its individual members, and the members of the administration to enable them to move their policies forward. Commissioner Moore asked Ms. Chiaro if she assisted with the hiring of other attorneys who assisted her in her present position. Ms. Chiaro replied that she participated in the selection process, although the final decisions were made by the City Attorney in the City of Miami pursuant to its Charter.

Commissioner Moore inquired about the racial composition of the office in Miami. Ms. Chiaro thought there were about 35% African-American or Haitian attorneys, about 30% Hispanic, and the rest were fell into the "other" category. She advised that there were 28 attorneys in that office. Commissioner Moore asked Ms. Chiaro if she had ever created an office "from the ground up." Ms. Chiaro replied that she had done so in the City of Hollywood. She believed she had created a law office with a fine reputation, with a well balanced and bright staff.

Commissioner Moore noted that the subject of current legal challenges in Fort Lauderdale had been raised, and Ms. Chiaro had mentioned principles v. cost. He wondered how she would balance the credibility of a position against the principle involved. Ms. Chiaro felt a community should know what it was getting into in such matters, and sometimes fighting for a principle did cost money, and it was best to know the costs before going in, but that was not always possible. However, projections could be made and budgets established for litigation, and there were lots of ways to handle the costs. Ms. Chiaro felt a constant flow of information on the progress of litigation was very important.

Commissioner Moore asked Ms. Chiaro how she would select outside counsel when necessary. She replied that creation of a list through issuance of RFPs was a process that worked very well coupled with evaluation of results. She also thought it was important to get outside counsel that was committed to the particular cause involved. Commissioner Moore asked Ms. Chiaro why she felt she was best suited for this position. Ms. Chiaro thought she was well suited for this job because in speaking to each of the Commissioners, she felt she could address the issues they had raised. She believed she could provide the legal advice necessary to move forward the issues that were important to the Commission and its constituency. Ms. Chiaro also thought it would be exciting to lead the legal team as the City Attorney's Office in Fort Lauderdale changed to its new format.

Commissioner Hutchinson asked Ms. Chiaro to describe an instance in which she had found management and a commission at odds and how she had facilitated the resolution. Ms. Chiaro replied that she had recently served as the Attorney responsible for creating a civilian investigative panel related to police issues. She advised that one of the discussions had centered on whether the members of the panel should undergo criminal background checks, and most of the commissioners were adamantly opposed to the idea. However, the City Manager had been equally adamant that members should undergo criminal background checks, and she had suggested the applicants be told that they might have to undergo such a check, and applicants were prohibited from having a criminal background. Therefore, she'd had to move the City Manager closer to the Commission's position, and the application language had been amended.

Mayor Naugle noted that this position worked under a 5-member panel, and the Mayor and Commissioners were all equal under the Charter. If she were ever at odds with any of the Commissioners, Mayor Naugle asked if she would still share information equally. Ms. Chiaro replied that she absolutely would, and she noted that was "the nature of the beast." She believed healthy discussions all the time moved things forward, and she had developed a "pretty thick skin" over the years.

Mayor Naugle understood Ms. Chiaro was an experienced litigator and asked her to describe her "sweetest victory" and her most "agonizing defeat." Ms. Chiaro recalled a case in which two police officers had been accused of using excessive force and making a false arrest. That case had been tried in federal court, and the judge had referred to her as "little lady" throughout the trial because her face had been obscured by the podium. Nevertheless, she had prevailed. Although it had not been a very important case in creating law, it had been important for the legal community because she had been the lone female in the litigation department of the City of Miami at the time. Ms. Chiaro had also been pleased when the parking surcharge ordinance she had written had been upheld, and it was now being appealed to the Supreme Court.

Ms. Chiaro advised that her most agonizing case had involved the Sunshine Law issue in Hollywood. She knew that she had provided correct legal advice, and she had known that the meeting, which had been the subject of the litigation, had not been subject to open meeting laws. Ultimately, the matter had been overturned on appeal, but during the preceding two years, the City Attorney had faced a charge of violating the Sunshine Law.

Mayor Naugle noted that Mr. Lyles had agreed to stay on until his replacement had been obtained, and he wondered when Ms. Chiaro would be able to start. Ms. Chiaro replied that the City Commission in Miami recessed during August, so she would want to finish the two July meetings that were upcoming.

At 2:34 p.m., Commissioner Moore left the meeting. He returned at 2:35 p.m.

Upon questioning by Commissioner Katz, Ms. Payne said she had experience in matters relating to bidding and purchasing, unions, planning and zoning petitions for cert, and labor relations. She had some experience related to bond financing, but she had not handled any cases of eminent domain. In terms of public ethics, Ms. Payne said she had addressed questions in that regard, but she had not represented anyone in a particular proceeding. Commissioner Katz inquired about her feelings concerning overlay districts. Ms. Payne felt they were a good tool and had just completed work on one in Wilton Manors, which that community was finding to be very successful in terms of quality design guidelines.

Commissioner Katz asked Ms. Payne how she would handle Code changes relating to redevelopment and growth. Ms. Payne felt overlay districts helped accomplish smart growth goals, and Code changes would depend upon the extent of the Commission's ideas and desires. Commissioner Katz noted that counties controlled cities when it came to CRAs, and she wondered what Ms. Payne felt was the appropriate role of counties in terms of urban redevelopment projects. Ms. Payne stated that the counties had the authority under current State law, and some cities supported legislative remedies in that regard, but she felt working through the existing system was possible.

Commissioner Smith noted that Ms. Payne had a strong reputation in this town, of which she should be very proud. He asked her to comment on some of the recent challenges in Fort Lauderdale, including the police liability cases, a backlog of workmen's compensation issues, the environmental lawsuit, various land use cases, and the discrimination cases that had plagued the City for the past few years. He asked her if she had a personal philosophy or strategy on the question of principle v practicality. Ms. Payne did not think the City was a lost cause despite all the media stories, and it was one reason she wanted to come back to work for Fort Lauderdale.

Ms. Payne said she'd like to help develop some strategies and plans to resolve the outstanding issues. She thought different strategies had to be used since different areas of law, histories and solutions were involved in different cases, although there might be some common ground in terms of publicity. Ms. Payne explained thought the City's public image had suffered some damage, which was sad for her after investing so much care, love and time in the City herself as an employee and as a resident. She thought a fresh point of view might be helpful, and she believed a cure was possible.

Commissioner Smith asked Ms. Payne if she would fight for principle until the bitter end or cut the losses at some point. Ms. Payne said she was a practical person, but she was also principled. She had settled matters when it was necessary as there were financial considerations, and she thought the City Attorney should do what the Commission wanted based on all the facts and information.

Commissioner Smith inquired about Ms. Payne's family and leisure pursuits. Ms. Payne said her brothers and parents all lived in the area, and she had been married for 16 years. Although she had no children, she spent a lot of time with her nieces, and she felt she had a good family support system. Ms. Payne said she spent her free time fishing, swimming, boating, hiking and camping, and she was really an "outdoor person."

Commissioner Moore asked Ms. Payne if she could explain what she thought the City Attorney should do in one sentence. Ms. Payne replied that the City Attorney should advise the City Commission. Commissioner Moore asked her if she had ever built a law office from the ground up, and she replied that she had on a small basis in that she had hired assistant city attorneys, and office staff on a routine basis. Commissioner More understood Ms. Payne participated in the hiring at her current position and inquired about the composition of the office. Ms. Payne replied that there were 8 attorneys, of which 2 were females and 2 were white males, and the others were Jewish males, but she had not been involved in their selection.



Commissioner Moore referred to the selection of outside counsel and asked Ms. Payne how she felt they should be selected. Ms. Payne felt the first step was determining the need for outside counsel, in which the City Commission would participate. Commissioner Moore asked her why she felt she was best suited to this position. Ms. Payne felt her local experience in Fort Lauderdale and Broward County would be valuable to the position. She had lived and worked here all her life, and she still enjoyed public service after 21 years.

Commissioner Hutchinson asked Ms. Payne to describe a situation in which she had found a City Commission and management at odds and how she had facilitated a resolution. Ms. Payne acknowledged that was not uncommon, and she usually spoke with the individuals involved separately to try to understand both perspectives in order to determine if there was some common ground. She had found that people in this setting were not usually as far apart on issues as it might appear. Commissioner Hutchinson noted that Ms. Payne had come highly recommended, and she had received many recommendation letters on her behalf.

Mayor Naugle noted that all of the Commissioners were equal, and it was always nice to have the support of them all but, if there came a time when one or more Commissioners did not support her, he wondered if Ms. Payne would still provide them all with the same information. Ms. Payne replied that she absolutely would and felt it was very important to point out that a City Attorney worked for all 5 of the Commissioners in an equal sense. She said she would always provide them with the same information and, in fact, knew of no other way to do the job.

Mayor Naugle asked Ms. Payne about her sweetest victory and most agonizing defeat. Ms. Payne thought her sweetest victory had probably been having adult entertainment regulations sustained in the federal court system. She believed the most agonizing case in which she had been involved had related to the billboard issue. That case had been lost, although it had subsequently been settled. Mayor Naugle asked Ms. Payne when she would be available if she were selected for the position. Ms. Payne replied that she would need about a month from the time of contract approval.

Commissioner Katz asked Mr. Stewart about his experience in the various issues currently affecting the City. Mr. Stewart had experience with respect to purchasing and employment issues through in the Fourth DCA, the Fifth Circuit of the Federal Court of Appeals, and the Eleventh Circuit of the U.S. Supreme Court. He advised that he had handled injunctive proceedings and petitions for cert with respect to planning and zoning issues. In fact, he probably had the most experience in this area, having litigated the first case in the State of Florida that had authorized impact fees, and he had defended a number of land use planning regulations.

Commissioner Katz inquired about labor negotiations and collective bargaining. Mr. Stewart replied that he had handled such negotiations, and probably the most difficult had involved a Fire Department. In terms of eminent domain, he had done a great deal of work, and the most difficult case had involved extension of the north runway at the Fort Lauderdale Hollywood International Airport, which had necessitated condemnation of the railroad.

Commissioner Katz inquired about Mr. Stewart's experience in terms of public ethics. Ms. Stewart said he had been hired as the outside counsel for Hillsborough County when the County Manager, County Attorney and County Commissioners had been subpoenaed for federal grand juries. Commissioner Katz asked his feelings about overlay districts, and Mr. Stewart said that he saw his role in such matters as that of a counselor. He felt the City Attorney's job was to provide information about the pros and cons and then accomplish the Commission's goals.

Commissioner Katz asked Mr. Stewart if he was familiar with the concepts of mixed-use redevelopment and smart growth. Mr. Stewart was fairly familiar with the issues involved in these concepts, and he felt it would probably be best to try working with the existing Code by making appropriate amendments first, but an entire rewrite might be necessary depending on the vision the Commission wanted to implement.

Commissioner Katz understood the County had certain powers over the City in terms of CRAs, and she asked Mr. Stewart about his feelings concerning the role of the County when it came to urban redevelopment projects within the City. Mr. Stewart stated that the whole function of the CRA was to take money generated by new development that might otherwise go to the County and reinvest it in the community. However, the County had a fiscal interest, and he would not be at all surprised by opposition. He said his personal opinion was that those types of redevelopments were excellent in terms of finding money against which bonds could be issued, but he thought a legislative amendment might ultimately be necessary. Commissioner Katz wondered what could be done in the meantime. Mr. Stewart understood Fort Lauderdale already had 2 existing CRAs, and Commissioner Katz advised there was a desire to extend the boundaries of those CRAs. Mr. Stewart advised it was a political decision, but he believed there were a number of ways to get the proper attention from the County.

Commissioner Smith said he had been very impressed with Mr. Stewart's experience, and the City had a plethora of challenges in its legal department. He said that lawsuits had been leveled against the City ranging from police liability cases, to workmen's compensation cases, the Wingate case, some land use lawsuits, and discrimination cases. He asked Mr. Stewart if he had a broad philosophy in terms of setting or fighting for principles. Mr. Stewart said his basic philosophy was that the worst and most expensive way to resolve anything was through litigation, and negotiation was the best way to go. However, there were times when parties would not or could not negotiate, and positions were too disparate for negotiation to succeed. Mr. Stewart felt then there was no other choice but to vigorously defend one's rights and seek a settlement or a final decision to stop the "bleeding or pain."

Mr. Stewart stated that there had been difficulties in Broward County with a lot of slip and fall cases related to the bus system. He had initiated a policy of "no settlements," and if anyone received money from the County it would be through the action of a judge. Mr. Stewart reported that after two years, the number of cases filed had decreased by more than half, thereby eliminating the frivolous cases and leaving only the valid claims.

Commissioner Smith asked Mr. Stewart about his family and what he did for fun. Mr. Stewart said he had a passion for fishing, and his boat "My Darling" was his fun and his family.

Commissioner Moore asked Mr. Stewart to describe the job of the City Attorney in a single sentence. Mr. Stewart said the job of the City Attorney was to counsel and advise the collegial body. Commissioner Moore asked Mr. Stewart if he had ever built a law firm from the ground up. Mr. Stewart replied that he had done so when he had gone to Orange County as the first in-house Attorney in that County. He advised that there had been no in-house office at all at the time. He believed Fort Lauderdale had a good framework upon which to build based on his investigation. In Orange County, Mr. Stewart had to formulate a budget, hire the staff, install a computer system, and compile a library. In the end, there had been 14 Attorneys on staff.

Commissioner Moore asked Mr. Stewart if he was involving in hiring decisions in his current process. Mr. Stewart said he had been a member of the Board of Directors of the firm and served on the Management Committee, and hiring and firing decisions were left to the various sections addressing the different areas of practice. As the Senior Partner in Orlando's Real Estate Section of the firm, one of his responsibilities was to review qualifications for new counsel, lateral shifts, and outside counsel.

Commissioner Moore asked Mr. Stewart if he was familiar with the diversity of his firm's staff of 365. Mr. Stewart did not know exact percentages, but the firm qualified under the local rules of Orange County and the City of Orlando's diversity requirements. He noted that Judge Hatchett was in charge of the firm's Diversity Committee and was putting together a program to increase the firm's diversity. Commissioner Moore asked Mr. Stewart what he felt was the most appropriate way to select outside counsel. Mr. Stewart felt the first step was to determine the type of expertise necessary to address the issue and evaluate whether or not there was sufficient expertise in house. If not, the best person for the particular job should be hired, and there was always the possibility that large firms with the necessary expertise had conflicts when it came to City work. He added that the economics of hiring outside counsel also had to be considered, particularly if the case might be of a repetitive nature.

Commissioner Moore asked Mr. Stewart why he felt he was best suited for this position. Mr. Stewart cited his experience in management and land use matters, and his people skills, skill in negotiations, and litigation skills as unique qualifications for the position.

Commissioner Hutchinson recalled working with Mr. Stewart in 1997 with respect to an interlocal agreement and development order, and he had come highly recommended. She asked him to describe an instance, if possible, in which he had dealt with an elected body and an administration that were in conflict. Mr. Stewart recalled a relatively large project involving a \$900 million request for proposals. He stated that scope of the project kept getting narrowed to the point where it appeared only one bidder would qualify. He had suggested that might be inappropriate, and the ultimate resolution had been the fairly drastic step of rebidding the project to bring the parties together.

Mayor Naugle asked Mr. Stewart how he would handle a situation in which one of the five Commissioners was at odds with the rest. Mr. Stewart replied that he would always have to treat all the Commissioners the same as the representative of the body rather than any particular Commissioner. Mayor Naugle asked him to describe his sweetest victory and most agonizing defeat. Mr. Stewart believed his sweetest victory had been when the Florida Supreme Court, for the first time Florida history, had approved the impact fee ordinance in Broward County. His most agonizing defeat involved an appeal to the U.S. Supreme Court of a case he had successfully argued before the Florida Supreme Court. He had received a 30-page opinion that had quoted extensively from his own brief, but in the end the opinion had dissented.

Mayor Naugle asked Mr. Stewart when he would be available if he were selected to fill this position. Mr. Stewart replied that he preferred 60 day's notice, but he could make the transition in 30 days.

Mayor Naugle suggested a resolution appointing a new City Attorney be considered at the Regular Meeting this evening after presentations were made and prior to consideration of Consent Agenda Items.

**Action:** Formal action to be taken at Regular Meeting.

### **I-B – “Envision 2011” – Strategic Planning Issues**

A presentation was scheduled on the strategic planning issues known as “Envision 2011” for the City. The City Manager noted that copies of the presentation had been distributed, and a new package of information contained the input provided by the City Commission. He stated that over the past year or so the City had engaged in any number of studies and workshops, and the Commission had indicated a willingness to develop a long-term plan for the future of the City. The City Manager believed that had stemmed from recognition of the importance of an infrastructure system in place that would take the City where it wanted to go by its 100<sup>th</sup> birthday in 2011.

Mr. Bruce Chatterton, Planning & Zoning Services Manager, provided a PowerPoint presentation of Envision 2011 – The City of Fort Lauderdale’s Strategic Plan. He advised that priority action issues included:

- Preservation of the character of individual communities and their sense of place through beach code changes, historic preservation, etc.;
- Expansion of choices in the types and affordability of homes;
- Integration of open space into the fabric of development, such as urban plazas and recreational trails;
- Creation of pleasant streets that benefited all users, pedestrians, transit riders, and motorists;
- Increased transportation choices and stronger viability of transit options;
- Promotion of economic vitality through a move away from regulatory approaches to land use issues to one that relied on incentives and investments to achieve common goals;
- Promotion of smart growth initiatives; and
- Improved connections between jobs and housing locations through mixed use development.

Mr. Chatterton reported that physical planning involved urban design, land use, growth management and redevelopment tools, and establishment of City policies for urban and neighborhood character. As examples, he cited the downtown urban design plan; the CAP Initiative; the Land Use Element; the Riverwalk Plan; the Central and North Beach Code changes; and, the NWPFH CRA Plan. Mr. Chatterton stated that transportation planning would address roadways, transit, urban greenways, pedestrian connections, a balance between modes, and transportation that supported the quality of life. Examples included the Transportation Element, the Subarea Mobility Study, and UDATS.

Mr. Chatterton referred to economic development. He felt it was essential to determine the City's preferred and supportable uses; adjust the physical plan to enhance those uses; and, determine what the City wanted to be in the future. Mr. Chatterton stated that examples of economic development activities included the CRA Plan, the Water & Sewer Master Plan, the Economic Development Plan, and establishment of public/private partnerships.

At 3:27 p.m., Commissioner Smith left the meeting. He returned at 3:30 p.m.

Mr. Chatterton referred to immediate steps. He advised that the Downtown Master Plan was underway now, and that would address urban design issues while being carefully coordinated with the Subarea Mobility Study. He expected the results of that Study would function as the Transportation Element of the Downtown Plan. Mr. Chatterton stated that an Economic Development Plan was underway and would be implemented over the next year.

The City Manager felt all this material boiled down to a simple question – What would the legacy of this City Commission and administration be as it related to the City's role in proper strategic planning through 2011? He thought the input obtained from each of the Commissioners indicated a desire for something that demonstrated sensitivity to people, as opposed to just systems. The City Manager envisioned a sustainable community in which greater cooperation and joint planning resulted in enhanced choices and affordability in terms of housing to achieve a balanced, people-oriented system for transportation and recreation.

The City Manager noted that each time these matters were discussed, the conversation addressed historic preservation, urban design, and economic viability that emphasized job creation and incentives to drive the economic engine, rather than strict regulation. The discussions also entailed a sustainable community with a livable downtown while preserving and encouraging neighborhoods of character. He thought it would be a good idea to work toward integrating all of those ongoing efforts and provide a Citywide perspective through a process that would enable what the City was and did.

The City Manager recalled that Mr. Summack had indicated in his lectures and writing that embarking upon something like this near election time might not be the preferred approach, and a determination should be made by the Commission as to heeding that caution. He had set forth a schedule that extended beyond March, 2003. In addition, Commission guidance was necessary to ensure that the various elements and initiatives currently ongoing did not get ahead of one another. The City Manager recommended that a kick-off workshop be scheduled very soon to establish parameters.

Mayor Naugle thought the community benefited greatly from the American Assembly process, but he also felt the community would benefit from input from the economic development activities, including the Transportation Element, Economic Development and Urban Planning. He stated that participants of an Assembly would benefit from the input and work that would result from those three initiatives. Therefore, he felt an Assembly would be timely as those three initiatives were moving solidly along.

Commissioner Smith thought it would be interesting to take the American Assembly documents and have the City Manager provide his thoughts on what had been accomplished and what was left to do before doing another. However, he felt it would be a good idea to have another. Commissioner Smith believed the City's 100<sup>th</sup> birthday could be used to its advantage and to achieve its goals. He agreed that the three things mentioned were good issues to key in on, and one thing he wished to add was that the northwest part of Fort Lauderdale became a functioning part of the town by 2011.

By 2011, Commissioner Smith wanted a functioning trolley system, guidelines for the downtown to make it pedestrian friendly, and economic development all around the City. He felt, however, that efforts should focus on the section of the City that had been "wronged" for too long. Commissioner Katz wanted a kick-off because one of the three goals had become an "octopus," and was taking over everything else rather than dealing with the City in an equal way. She felt the Commission should have a better idea of what it wanted and what was happening by examining results of past Assemblies before a second Assembly in the spring. She wanted one beginning kick-off to settle on what was important.

Commissioner Hutchinson asked Commissioner Katz what she envisioned in terms of a kick off. Commissioner Katz thought a small session with the Commission and the City Manager would be in order to see where the City was and where it was going before the Assembly. She was concerned that there were so many things "floating out there." Mayor Naugle thought that was being done now through the 3 initiatives underway.

Commissioner Moore referred to the CAP initiative. He thought the Commission needed to listen to the people and let them tell the Commission what they wanted through that CAP initiative. Commissioner Moore pointed out that those people were doing a lot of work and staff was spending considerable time in that respect. Mayor Naugle wondered where the CAP was in this, and Commissioner Moore did not think it was included. He felt the CAP process should be followed because it empowered communities. Commissioner Smith agreed that would be a good start. Mayor Naugle believed the difficulty lay in the fact that it was only underway in one part of the City at this time.

Commissioner Moore pointed out that the entire City had been told that the CAP would be coming to them through phases, and people saw it as an opportunity to tell the City what they wanted. He was also glad that the Commission was willing to address the northwest area, and he felt this Commission had done more to provide funding to that area than any other in the past. Nevertheless, he felt there should be some goal to ensure it was done.

The City Manager was glad that the Commission was not losing sight of the CAP, but nothing in here indicated a desire to substitute it for other programs and initiatives already underway. He stated that no one was looking to change priorities either. He believed one of the things this process would do was to give everyone a full understanding of everything the City had. Mayor Naugle felt that in addition to the CAP, the City had also had the 1994 Best City of Its Size initiative, and now the 100<sup>th</sup> birthday of the City in 2011. The City Manager felt the term Envision 2011 could be improved as a theme, but the idea was to examine all the initiatives that would be a part of Fort Lauderdale in 2011. He wanted to extend redevelopment efforts more solidly into the northwest area.

The City Manager thought everyone would be pleasantly surprised at how much was already out there and how much input had been provided by the community through the CAP initiative, the CRA, neighborhood improvement activities, etc., and this was not something new. Commissioner Moore pointed out that 2011 was not a short time away, but he believed the CAP

process would eventually reach every community. He thought this kind of visioning could take place through that process, and he felt it was important to follow the CAP process because it involved people more than business. Commissioner Moore stated that business was important, but the CAP process gave the people a feeling that government could work for them, too.

Commissioner Smith thought they went hand in hand because if the regulatory environment was changed, perhaps to require wide sidewalks where homes were built, it would benefit neighborhoods. He believed neighborhoods wanted capital improvements, but the City could not afford to just pay for everything everyone wanted. Instead, he felt the City had to create an environment conducive to redevelopment that could fund those improvements.

Commissioner Moore was concerned that requiring new development to fund improvements would result in the projects becoming so expensive that the individuals in a neighborhood were priced out of the community. Commissioner Katz felt a holistic approach was necessary. Commissioner Moore agreed. Commissioner Katz thought everyone should provide a "wish list" of things to make their communities better, and then that could be linked to laws that could be changed to make those things happen. Commissioner Moore wanted the CAP initiatives completed, and then this could be "wrapped around it."

Commissioner Smith asked how long the CAP initiative would take. Commissioner Moore believed there were 2 more to be done, so Commissioner Katz estimated it would take 4 more years. She did not think the City could afford to wait 4 more years to take a look at an entire City. Mayor Naugle noted that some of the recommendations from the first CAP area had already been implemented with the Utilities Plan. Commissioner Smith agreed the activities overlapped.

Commissioner Smith asked the City Manager how long it would take him to go over the American Assembly document to determine how successful it had been, and the City Manager thought he could present something at the second meeting in September. Commissioner Hutchinson requested a copy of the document. Mr. Witschen said he would provide copies of that and the 1994 Vision analysis.

At 3:55 p.m., Commissioner Moore left the meeting. He returned at 3:58 p.m.

Mayor Naugle thought it would be a good idea to gather some of the knowledge about what was taking place with urban design, transportation issues, planning initiatives, etc., and set up some sort of multi-session process that future American Assembly participants would go through before having the vision session, rather than everyone coming in with different views on different things. Commissioner Smith understood he was referring to some kind of structure in order to reach solutions more quickly. Mayor Naugle agreed it was for that reason and to benefit from the knowledge of the citizens working on the different initiatives underway now. Commissioner Katz said that some were just starting, and she felt the Commission should be able to discuss their concerns and how they fit in here. Commissioner Hutchinson did not see that as a kick-off but as a Commission workshop. Mayor Naugle felt it should be inclusive with citizen input.

Commissioner Katz said she wanted public input, but first she wanted a workshop meeting with the Commission. She pointed out that she had a lot of information about smart growth that she had not had an opportunity to share with the Commission, and Commissioner Hutchinson had not had a chance to share information about livable cities. Commissioner Smith suggested the Commission do that right after the City Manager provided the report because about 200 citizens had spent a weekend in 1995 listing what they felt the City should do to make Fort Lauderdale great in the future. That information could then be discussed along with the new ideas, and it was suggested that the Commission do this right after the budget process in October.

Commissioner Katz felt this was important enough to budget some money. Commissioner Hutchinson wanted a meeting on a day other than Commission meeting days and suggested July for the workshop. The City Manager understood the Commission was suggesting he speed up the review of the American Assembly materials. Commissioner Hutchinson suggested he simply provide the materials to the Commission to read themselves. Commissioner Smith wanted an analysis from staff. The City Manager said he would do both. He advised that he would also include funds in the budget to carry this multi-year process forward.

Commissioner Smith wished to have the workshop in early September. Commissioner Katz wanted to do it in July. Commissioner Moore pointed out that the Commission gave staff a lot to do but not enough time to do it, and then they were upset with the results. He saw no reason to rush into this, and he supported an October workshop. Mayor Naugle agreed.

**Action:** Workshop to be scheduled for October.

#### **I-C – Maximum Heights and Densities – Central Beach Area (CBA) and Barrier Island**

A discussion was scheduled on possible reductions of maximum heights and densities in the CBA and Barrier Island districts. Commissioner Smith explained that this was a proposal to examine the maximum allowed heights in the central beach, or perhaps the entire barrier island. He stated that this had been an issue for a number of years, and there had been a moratorium on construction in the beach area a few years. Commissioner Smith recalled that regulations had been deliberately left flexible during the economic downturn in the 1980s in order to attract redevelopment. However, a subsequent decision had been made to amend some of those regulations because they were so flexible that the outcome might be over development on a narrow stretch of important land.

Commissioner Smith recalled that changes had been made after the moratorium, and various issues had been addressed. However, building height had never been addressed. He did not want to examine all the rules again, but he felt this last issue of height required attention. Commissioner Smith suggested an across-the-board reduction in allowed height of, perhaps, 20%. He did not want to be too aggressive, and he felt 20% was a modest reduction. Commissioner Smith had also considered practical matters, and the last few projects had come in at 240' rather than 300'. Although some residents felt 240' was still too tall, he felt it was better than 300' and would be a reasonable approach from a practical standpoint. Commissioner Smith did not think this would affect redevelopment too much, but it would guard the community against the very tall buildings like Jackson Towers and Beach Place. He presented some aerial footage of the beachfront from Deerfield Beach to Hallandale to provide a comparison of Fort Lauderdale and other cities along the coast.



Mayor Naugle said the reason he had wanted to address density was because it was included in the Comprehensive Plan. He was concerned about the possibility of a major storm one day and evacuation of the barrier island. Mayor Naugle thought height could be a question, but he felt the City had a sound legal basis for limiting density on the barrier island based on the evacuation need. He noted that if 25 units to the acre was not the right number, staff should at least start investigating the number of units allowed in all classifications on the beach because public safety was the issue.

Commissioner Katz felt the City Attorney should examine the legal ramifications of the idea. She believed Boca Raton had tried to put a limit on population for public safety reasons, but the effort had been unsuccessful in court. Mayor Naugle said he was not suggesting a cap on population but a limit on density. Commissioner Smith believed that was the effect of density regulations because density was people. He said it was the actual building that residents seemed to object to, and larger units with fewer people could be built, but that would not deal with the massive buildings.

Mayor Naugle said he had heard concerns about the traffic generated by the people, although he thought both the number of people and the large buildings were the problems. He pointed out that Jackson Tower had a density of 120 units to the acre. Mayor Naugle believed floor area ratio was one way to deal with both problems because simply reducing the height resulted in squatty, massive buildings, which were probably more offensive than tall, slender buildings.

Commissioner Smith agreed with Mayor Naugle if he was referring to full-time residency, and he believed the City could outlaw any new condominium on the barrier island, but he did not think hotels should or could be limited. He recalled that he had received no support from the Commission on that idea, and Mayor Naugle pointed out that he had also received no support for addressing the floor area ratios.

Commissioner Katz wanted to know the legal ramifications of supporting this proposal. She felt the Commission needed to know the pros and cons. Commissioner Smith agreed. Mayor Naugle agreed it would have to be based on sound planning and examination of the evacuation issues.

Mr. Bruce Chatterton, Construction Services, agreed that the Comprehensive Plan included an evacuation model under Objective 26, and it was fairly new. He stated that new development would be monitored according to the model by requiring certification orders that explained how the new project "stacked up" against the evacuation plan. Mr. Chatterton had been informed by the County today that no area in Broward County was out of compliance with that plan, but certification letters from every development were required.

Mayor Naugle thought the issue should be examined. He knew the answer he would get by simply asking if developments complied with the County's evacuation plan, but he was concerned about the City taking a comprehensive look at how many people were out there and how they would be evacuated from the barrier island in a short period of time. He did not believe it could be accomplished if developments with 60, 80 and 120 units per acre were permitted.

Commissioner Moore felt Mayor Naugle was correct, but there were several ways to look at the situation. He noted that many people who had condominium units in the area were not often in residence during hurricane season, while hotels could be filled with tourists so they might generate greater populations on the barrier island than condominiums. Commissioner Moore thought that if limiting height was the intent, the City should deal with that issue. That was Commissioner Smith's preference. Commissioner Moore did not know if that was the right approach, but he had always felt that trying to force certain designs did not make good sense. Commissioners Smith, Katz and Hutchinson felt there should be limits on building height. Commissioner Moore said his personal opinion was the opposite if a developer presented a model with desirable features, etc. He did not want everything to look the same.

Commissioner Smith stated that the different zoning districts all had different height restrictions. The City Attorney advised that there was no question that something that affected public health provided a sound basis for adopting zoning regulations, and the question then was enforcement. He explained that the Harris Act presumed a regulation met Constitutional requirements, but compensation was triggered if it worked an unusual burden on a land owner. The City Attorney said those had to be addressed individually as such cases arose, and the same consideration would apply when it came to height reduction.

Commissioner Smith thought current owners might have a case if zoning was changed, but there were avenues through which such things could be addressed such as the dispute resolution process. However, if a height reduction was put in place today, when those properties were sold, the new owners would not have the same rights. The City Attorney said that feature went into the defense of the Harris Act because new owners would not have the same expectations because of due diligence based on current regulations.

Mayor Naugle felt that both the height and density ideas would involve going to the Planning & Zoning Board as the next step. The City Attorney advised that the next step would be for staff to present a recommendation to the Commission, which would then be forwarded to the Planning & Zoning Board, and eventually come back to the Commission for adoption.

Commissioner Katz noted that just "lopping off" the tops of every building would not truly achieve the goal of providing compatibility with surrounding residential areas. She felt the issue should be addressed in a more comprehensive way than an across-the-board reduction. Commissioner Smith pointed out that many of the other issues had been addressed before, and the process took a very long time. He felt that if this were not changed immediately, more buildings would be constructed in the meantime.

At 4:24 p.m., Commissioner Moore left the meeting.

*Mr. Joe Hessmann*, beach area resident, said he had taken his daughter to camp this morning at Birch State Park, and he had followed a path into the woods for a 20-minute walking tour of what Fort Lauderdale beach had looked like not long ago before development. He felt development on the barrier island should be approached with caution, vision, and respect because there would be no new bridges or roads built. He felt development should be steered in the right direction.

At 4:25 p.m., Commissioner Moore returned to the meeting.

*Ms. Judy Scher*, President of Birch Crescent Apartments, was glad the Commission was willing to address building height and density on the barrier island, but she was very concerned about the 12 buildings that had already been approved. She did not believe a 20% height reduction would have any real impact on a high rise building, but a 30% to 33% reduction would be meaningful. Ms. Scher felt the Commission should take another look at what was happening in the beach area and consider another moratorium.

*Mr. Mel Rubinstein* agreed that height and density had become a major concern in the area. He suggested five things:

- A 20% reduction in the height of mid-rise buildings and a 30% to 33% reduction in high rise buildings;
- Encouragement of midsize development;
- A focus on open space;
- Denial of requests for variances to the rules; and
- Amendment of the rules very soon.

He pointed out that communities with waterways everywhere were investing a great deal to protect those waterways for the public. Mr. Rubinstein hoped this City would be as progressive as those other cities in America to provide for tourists and residents alike.

Commissioner Moore asked Mr. Rubinstein how tall his building was, and he replied it was 16 stories tall.

*Ms. Shirley Smith* read aloud a statement from the Central Beach Alliance, which indicated that zoning changes were important to beach area residents, and they believed careful consideration had to be given to development so it supported the community as a whole but did not result in overcrowding and congestion. Ms. Smith hoped that consideration would be given to the existing utility infrastructure to ensure sufficient water, sewer and electrical capacity for current and future development, as well as adequate evacuation plans for the barrier island.

Ms. Smith stated that the CBA welcomed any discussion that would reasonably limit the scale of construction to help improve the quality of the beach for residents, visitors and greater Fort Lauderdale. She looked forward to the CBA being an active participant as the process moved forward. Ms. Smith did not think everyone realized just how many year round residents there were in the beach area, and she wanted to commend the Commission for realizing there were problems and seeking solutions.

*Mr. Michael Constantine*, of The Capri, thought the City should wait to see what new buildings went up before allowing any new development.

*Mr. Ben Lyons*, resident of Birch Crest, was glad the Commission was looking at planning and future development.

*Ms. Miranda Lopez*, of Dolphin Isles and the North Beach Alliance, supported a reduction in the height of buildings on the beach. She was particularly concerned about evacuation of the beach area because she'd had family visiting once when it was being considered, and everyone had been scared because they did not know where to go.

*Mr. Mike Grimme*, owner of beach area property, said he had started a business in 1997, and he was concerned as an owner with the idea of just "lopping off" 20% of buildings. He did not think it would be fair and compared it to taking 20% off someone's pension because it

eliminated 20% of the value of someone's building. Mr. Grimme wondered if the community who wanted to reduce the size of buildings was willing to compensate those who would be affected economically. He hoped everyone was aware of the potential ramifications of reducing property values, and he thought a better approach would be to provide incentives for redevelopment of substandard properties.

Mayor Naugle thought the Commission should ask the City Attorney to present the options associated with limiting height and density in the beach area for discussion before sending them on to the Planning & Zoning Board for review. Commissioner Smith said he intended to make a motion this evening to move ahead to reduce building height in the beach area by 20% across the board in all the zoning districts. He did not want to send this back "to committee" because it was a reasonable decision to cut out the highest portions of the highest buildings.

Commissioner Hutchinson asked Commissioner Smith if he meant to send that idea to the Planning & Zoning Board. Commissioner Smith agreed he was willing to do that, but he was not willing to send it back through staff so nothing would be accomplished until the fall. He wanted to pass a motion tonight to send it directly to the Board now and then back to the Commission for formal action. Mayor Naugle asked the City Attorney if that would weaken defensibility of the regulation. If it did not, he supported it, but he was under the impression that such things had to be noticed to the public, etc.

The City Attorney stated that a proposed ordinance would have to be noticed, and there would have to be some planning study that supported the regulation in order for it to be defensible. Commissioner Smith felt this subject had been studied to death already. Commissioner Katz did not believe the idea of a 20% across the board height reduction had been studied. Mayor Naugle did not want to vote for something that would be "ceremonial" and then not stand up in court. Commissioner Smith believed the issue of height had been studied for two years in 1997 and 1998. Commissioner Moore noted that one might ask why 30% or 33% or some other number had not been selected. Commissioner Smith felt more than 20% would be risky. Mayor Naugle understood he felt 20% was good, but 33% would not be good. Commissioner Katz agreed one could not just pick a number "out of the sky." There had to be a reason.

Commissioner Hutchinson wondered if the studies conducted during the moratorium could be used as a basis for such a regulation. The City Attorney advised that there had been some discussions about height, but he still believed the experts who would testify in support of such regulations would be Planning staff, and they needed an opportunity to examine those studies and supplement them as necessary. Therefore, there was a planning exercise necessary at this stage as well as a legal one.

Commissioner Hutchinson inquired about a potential time line if staff were, in fact, comfortable with using the previous studies. Mr. Chatterton said it would depend on how much there was to study. He was not personally familiar with previous studies other than the numerical study performed by a consultant about 18 months ago.

Commissioner Smith felt government did the best job of putting things off, but the business community did things all around issues while they were under study. He preferred to keep it simple, and he believed the community would embrace it. Commissioner Hutchinson agreed the issues had been studied to death, but she did not want to create a legal problem. Commissioner Smith thought the worst thing that could happen would be that someone would fight the regulation and win, and then he would be allowed to build a 300' building. He felt it was worth the risk and the cost, and he thought such things could be handled through negotiation.

Mayor Naugle thought this was a shallow attempt, particularly after voting for The Capri Hotel, at something political but that would not be lasting. Commissioner Smith pointed out that the Commission had an opportunity to outlaw condominiums in the PRD. He said this was a sincere attempt to do something good for the City and the beach.

Commissioner Hutchinson asked that the City Attorney be allowed to present a timeline at the next meeting for doing this correctly. Commissioner Katz supported that idea. The City Attorney advised that preparing an ordinance would not take any time at all, but a planning study to support the ordinance would take more time.

**Action:** Subject to be placed on July 2, 2002 agenda.

Mayor Naugle announced that the City Commission would now meet privately regarding litigation strategy in connection with the following cases:

- Doris Striggles v Robert Borowski and City of Fort Lauderdale – Case No. 99-021921(14)
- Labor Relations File Case No. LR 99-871 – Pamela Melgar
- Workers Compensation File Case No. WC 97-9453 – James DiPaolo

At 4:46 p.m., the meeting was recessed. It was reconvened at 5:24 p.m.

#### **I-D – Greater Fort Lauderdale Sister Cities International**

A discussion was scheduled on the Greater Fort Lauderdale Sister Cities International funding request and a presentation on its accomplishments in 2001.

Commissioner Katz recalled that Mr. Avon had indicated last year that this organization would be self sufficient, and she did not see any need for this funding request. She was also concerned that if there were business ventures resulting from these activities or other economic development successes, they were not listed in the material. Commissioner Katz was pleased that the organization now had 500 members, but she was looking for some measurable success for this investment in terms of increased tourism. She suggested that outgoing travel be reduced so more people could be brought into Fort Lauderdale to examine the opportunities here.

*Mr. Marty Kurtz*, Vice-President of Sister Cities, did not think a representation had been made last year that the organization would be self sufficient by this time but over a period of several years, and that was the goal. He noted that \$32,000 had been requested from the City last year, and only \$17,000 had been spent because \$65,000 had been raised. Mr. Kurtz expected to do as well or better this year, so the request had been reduced to \$20,000. He pointed out that bills were not submitted to the City unless the funds were needed.

Mr. Kurtz referred to providing information about specific economic development gains. He advised that a bookkeeper and accountant had been retained on a part-time basis, and there had been successes. However, he acknowledged that they had not been documented as well as possible. Mr. Kurtz said he would take that on as a personal project and set up a monitoring system.

**Action:** Approved as requested.

### **I-E – Neighborhood Registration Policy**

A discussion was scheduled on a proposed Neighborhood Registration Policy and recommendation for implementation. Commissioner Katz stated that there were two homeowners' associations that overlapped of which she was aware. She understood Seminole Drive overlapped with Coral Ridge and parts of North Coral Ridge overlapped with Coral Ridge, and they could not obtain grants or join the Council of Fort Lauderdale Civic Associations as a result. Commissioner Katz believed this policy would eliminate two of those associations.

Commissioner Hutchinson asked if the three neighborhoods mentioned could obtain grants. Ms. Leslie Carhart replied that they could now and they would still be able to if this policy were implemented. Commissioner Hutchinson wondered why the associations did not break off, and Commissioner Katz did not think that was possible. Commissioner Hutchinson asked if all three could be members of the Council. *Mr. Michael Kasten*, President of the Council of Fort Lauderdale Civic Associations, replied they could not. Commissioner Katz understood if two associations could not come to terms within a year, the original association was the one that was recognized.

Ms. Carhart stated that this had no specific implications for any services or programs, and the policy would only preclude those associations from being on the list for recognition. However, it had no other operating implications as presented because a group did not have to be on this list to obtain grants, for example. She explained that this created a list so the Commission and staff were assured that organizations that were geographically distinct had identified elected leadership and criteria. Thus, it only distinguished one group from another that might exist. Ms. Carhart stated that a group did not have to be on this list in order to be eligible for programs like the NCIP. Mayor Naugle added that the Commission decided what applications to support.

Mr. Chris Wren stated that if there were adjacent neighborhoods, the NCIP required their support of an application, but this did not preclude a neighborhood from applying. Commissioner Katz asked if any areas would be grandfathered in. Mr. Wren stated that there was no grandfathering for the recognized list. He advised that staff could work with the three associations mentioned to mediate some sort of compromise, as well as with any other areas that had some type of dispute.

Commissioner Smith felt this "missed the mark." He felt that if areas were geographically distinct, they should be able to have their own civic association. Commissioner Smith was concerned about areas within the same boundaries that split off into separate associations because they did not agree with activities of the existing association, which resulted in "two bites at the City's grant apple." If there were separate and distinct areas, he felt the City should recognize the new associations.

Mayor Naugle wondered what would happen if one or two streets in the middle of a neighborhood decided to form its own association. Commissioner Smith noted that would not be geographically distinct. Mayor Naugle understood he was referring to areas on the edge of another association boundary, and Commissioner Smith agreed that was correct.

Mayor Naugle suggested that the Commission adopt the recommended policy and, over the next year, attempt to facilitate agreements. Commissioner Smith desired language that allowed separate associations in areas that were very distinct. Commissioner Hutchinson supported the idea, but she felt staff should work with Seminole Drive and Coral Ridge to separate the boundaries. Mayor Naugle felt that could be accomplished over the next year. Commissioner Katz thought that if that was the goal, the two associations should be separated and recognized now. There was not support for that idea at this time.

Mr. Wren understood the mentioned associations would remain without change while staff attempted to mediate an agreement. That was the consensus of the Commission, along with provisional recognition for all three associations as suggested by Mayor Naugle. Commissioner Smith asked if the Council would go along with that provisional status, and Mr. Kasten replied it would not. He also felt it would be a "slippery slope," and that this should be done or not. Mr. Kasten felt the people from Seminole Drive should sit down and resolve their issues, and the Council would help because he did not believe some agreement could not be reached on boundaries.

Commissioner Smith wondered why Seminole Drive should have to be part of the Coral Ridge Association when that area was away from the rest of the neighborhood and did not have a lot in common. Mr. Kasten thought it could sustain its own association. Commissioner Hutchinson agreed the Coral Ridge Association simply needed to amend its boundaries to omit that area.

Mr. Carhart observed that this was all voluntary, and there might be groups that did not choose to apply for recognition, so this policy would not be all things to all people, and it would not make people play fair. In fact, she was not even sure that was possible. However, this policy would establish some sort of minimum standard that move people toward resolving their differences as other supports were provided by staff or the Council.

Commissioner Moore supported the recommendation with the addendum that if there was not an election held in a two-year period, the affected association not be recognized. He said there were a number of associations that had not held elections, and that was often the reason for splinter groups. Mayor Naugle understood the Commission wished to approve the recommendation provided elections were held every two years.

Commissioner Katz wanted to go on record that she did not support disenfranchising two homeowners associations in her district. Commissioner Smith agreed. Commissioner Moore believed this recommendation would only preclude such groups from being members of the Council. Commissioner Moore suggested approval of the policy minus the provision for geographically distinct areas in order to leave that matter open for discussion. It was agreed.

**Action:** Approved as discussed.

## **I-F – Baltimore Orioles Baseball Spring Training at Fort Lauderdale Stadium**

A discussion was scheduled on the future of Fort Lauderdale Stadium and its use by the Baltimore Orioles baseball team for Spring Training. The City Manager noted that some information had been distributed in this regard. Although he did not want to eliminate spring training, he was faced with a series of decisions relating to the short- and long-term, highest and best use of the property. He was also concerned about the investment being made in this on an annual basis as compared to the return being generated in terms of economic impact.

The City Manager stated that there was a safety issue with some cement spauling on the roof, which would require repairs estimated to cost \$250,000. He advised that there had also been considerable interest from various quarters about the use of the facility. He said that he and Mayor Naugle had met with someone who might be interested in using it for a baseball school, for example, but this was a policy matter for Commission direction.

Commissioner Katz was not pleased that she had learned about this from the newspapers, and no one had discussed this situation with her although the facility was located within her district. She felt this entire area had good possibilities in terms of private, mixed-use project of some sort, perhaps with an amphitheater and/or stadium, and she wanted to explore the idea. Commissioner Katz did not like the idea of repairing the facility if the Orioles planned to leave, but if the repairs were “wrapped into” some other future use, she was willing to consider it.

Commissioner Katz said that no one had demonstrated to her the economic benefit of baseball v Airport or other use. She recognized that there were some physical problems with the facilities, but she felt it was too early to address the matter without knowing what the Orioles would “bring to the table.” Commissioner Katz was concerned that the Orioles had brought nothing forward thus far, and the possibilities should be explored. She asked if staff was trying to determine if money for these repairs should be included in the upcoming budget and, if so, when staff would need an answer.

Mr. Greg Kisela, Assistant City Manager, stated that money was currently programmed into the accelerated recapitalization portion of the CIP. However, there were policy decisions to be made before that \$250,000 was spent. He advised that the \$250,000 roof repair was just the first of many expenditures that would have to be made, although that was the most pressing issue because of safety. However, the electrical system was obsolete, too, and there were major capital needs at the facility both in the short and long terms.

Commissioner Hutchinson noted there had been a lot of discussion about the Orioles not participating to help the City secure grant money. Mr. Kisela agreed that there had been some state money available in 2000, but the Orioles had been reluctant to make the 15-year commitment that had been necessary. He believed the Orioles had been reluctant because the team wanted both its major and minor league complexes in the same area, which required 50 acres of property. Mr. Kisela explained that in addition to the cost, that would have required taking Lockhart Stadium out of service. He said one question was whether the Commission wanted to commit that additional 50 acres.



Commissioner Hutchinson was uncomfortable spending a lot of money with no commitment from the Orioles. Mr. Kisela advised the team was willing to commit to 2 years. Commissioner Hutchinson did not think that was enough, and Commissioner Katz agreed. Mayor Naugle thought it would be insufficient for \$2.6 million in repairs, but he felt it was enough for a \$250,000 expenditure. Commissioner Moore understood the City lost about \$200,000 per year just operating this facility. Mr. Kisela agreed the cost was \$200,000 to \$250,000 per year.

Commissioner Smith asked if there was any other grant money available. Mr. Vince Gizzi, Bond Administrator, replied that the Grapefruit Association had met yesterday and was discussing some additional money in the next legislative cycle. It would be necessary to obtain someone to sponsor a bill and, while that was well into the future, the Association was talking about trying to get some additional funding.

Commissioner Smith understood that in the near term, it would be necessary to spend at least \$250,000 to open the facility safely next year. Mr. Gizzi agreed that was correct. Commissioner Smith asked when staff would learn if the School Board was willing to relinquish its lease for Lockhart Stadium. Mr. Kisela said there had not been discussion in that regard, but the term of the existing lease extended to 2008, and the Fusion was still involved. Commissioner Smith desired some plan to keep the Orioles in town, try to get the School Board to relinquish the lease, seek funding through the Grapefruit League, and estimate costs for necessary safety repairs. He felt that if it could be accomplished, the City should try because spring training provided a lot of benefit to the City. If it could not be done by a certain date, however, such as September 1, 2002, he thought the effort should be abandoned.

Commissioner Moore pointed out that the City had viewed this operation as a "white elephant" for years. He did not think it produced anything for the taxpayers, although Commissioner Smith thought it provided positive economic impact. Commissioner Moore could not argue the point because he did not know how the figures were validated, and he did not know how many people came to Fort Lauderdale specifically to see the Orioles. However, he wondered if there might be some other use that could have just as great or greater economic benefit for the community without costing the City \$250,000 per year. Commissioner Moore noted that the Executive Airport Fund was a very successful enterprise fund, and there were other uses that could use the space.

Commissioner Moore said that the City had been "throwing money at this" for years, and nothing was done. Now that the facility was in jeopardy, there seemed to be a lot of ideas, but Commissioner Moore thought something would have been implemented if possible. He felt that the letter from the Orioles seemed to indicate that if the City did not make the investment, the team was not interested, and he believed the team was buying some time while negotiating something in Central Florida. Commissioner Moore supported staff's recommendation and work on a use that would have economic benefit "around the clock."

Mayor Naugle felt there were short- and long-term issues to address. He said he had been contacted by the Orioles because staff had indicated the stadium would be demolished, and that was why he had met with representatives. Mayor Naugle thought a short-term strategy could be devised, while the longer term issues were examined, and he did not think now was the time to demolish the stadium. Commissioner Moore had no objection as long as the Orioles paid for the immediate repairs necessary to make the facility safe.

Commissioner Smith did not believe the Orioles were interested in a long-term arrangement unless Lockhart Stadium was made available as well. Therefore, if the School Board would not relinquish its lease, the subject was moot. Commissioner Moore felt it was moot anyway because the rest of the teams were playing in Central Florida, so this site would never make sense for the Orioles. Mr. Kisela stated that the City could buy out the School Board lease for \$80,000 per year. Commissioner Katz thought the Orioles could buy out the lease. Mr. Kisela added that there had recently been upgrades made to Lockhart Stadium at a cost of \$3 million to \$5 million.

Commissioner Katz did not feel the Commission had enough information yet to make a policy decision in this regard. Commissioner Hutchinson felt there should be a discussion with representatives of the Orioles. The City Manager thought he could arrange that for July 2, 2002. He wanted to remind the Commission, however, that alternative uses for the entire site had been under discussion since he had come to the City. In fact, various uses including spring training had been discussed in 2000. Mayor Naugle believed the Orioles had then made a counteroffer that had never been presented to the Commission. He understood the Orioles had said "bring Lockhart Stadium into the equation, and we'll talk." That, however, had not been communicated to the Commission. The City Manager did not know who had said what to whom, but he was not trying to keep anything from the Commission as the policy makers.

The City Manager stated that when the Commission agendas were published, they went to the press as well, which had prompted recent articles. However, the agenda included a staff recommendation, and he was not recommending demolition of the Stadium. Commissioner Smith wanted to know if the Orioles would be willing to sign a long-term agreement and pay half the cost if the City included Lockhart Stadium.

*Ms. Beverly Kennedy* said there were millions of dollars available. She had been told by the Environmental Protection Agency and the Department of Energy that the federal government offered money 18 months ago through the South Florida Council, but only her private consulting firm had been there at the time. Ms. Kennedy stated that all the City had to do was agree to work on government efficiency through the Energy Star Program. She said her consulting firm could help bring this money to Fort Lauderdale.

**Action:** Subject to be placed on July 2, 2002 agenda.

At 6:05 p.m., the meeting was recessed. It was reconvened at 9:25 p.m.

#### **I-G – National Conference for Community and Justice (NCCJ) Walk-As-One-Event**

The City Manager suggested that this item be deferred until July 2, 2002.

**Action:** Deferred.

#### **I-I – Constitutional Challenge to Senate Bill 108 (SB 108) – Chapter 02-236, Florida Statutes Section 112.18 – Police Disability Presumption**

A discussion on the City's position for the Constitutional Challenge to Senate Bill 108, Chapter 02-236, FS 112.18, relating to police disability presumption was scheduled.

**Action:** Approved without discussion.

## **II-A – Fiscal Year 2002/2003 Budget Priorities**

**Action:** Deferred.

## **II-B – Wayfinding Signs – I-95 and Downtown Fort Lauderdale**

**Action:** Deferred.

## **II-C – Employee Health Insurance Benefits**

**Action:** Deferred.

## **III-B – Advisory Board Vacancies**

**Action:** Action on listed Board vacancies deferred. See Regular Minutes, this date, for appointments to Aviation Advisory Board and Northwest-Progresso-Flagler Heights CRA Advisory Board.

## **IV – City Commission Reports**

### **1. Smart Growth/Planning**

Commissioner Katz reported that she had attended the New Urbanism Conference in Miami last weekend, and several County staff members had been present to learn about smart growth, transportation, and livable cities. She provided copies of a book about new urbanism projects, and that concept could be applied to affordable housing, and some of the projects had won awards. Commissioner Katz described some of the subjects discussed during the Conference, and she wanted to bring Mayor Neisen Kasdin, of Miami Beach, to make a presentation about how smart growth principles were being used in Miami Beach. She said there had been discussion about a new urbanism project in Fort Lauderdale.

Commissioner Katz referred to upcoming planning sessions. She wanted to make sure everyone did not have all sorts of different initiatives underway and worked together instead. Commissioner Katz wanted to ensure the Commission had a handle on all these important initiatives and to avoid a situation in which one entity was off “doing its own thing.” She felt someone should be in control, and she hoped it would be the master plan person so everything would come together.

Commissioner Smith said that the RAC Mobility Study Committee had some concerns, and he was concerned that the scope was creeping beyond transit issues. He preferred a tighter focus on transit. Commissioner Moore agreed, but the Mobility Study should also deal with some parking to make the transportation system work. Commissioner Hutchinson concurred.

**Action:** As discussed.

### **2. Policing Issues**

Commissioner Moore announced that matters associated with policing would be discussed at his District III meeting tomorrow at 7:00 p.m. due to complaints about response times, officer visibility, and certain tactics to eliminate unwanted activities.

**Action:** None.

3. City Attorney

Commissioner Moore wanted to thank the City Attorney for addressing the ethics charge filed by Leola McCoy and Kwamed Afah, which had been dismissed. He hoped the Commission could discuss frivolous lawsuits filed against the City in the near future.

**Action:** As discussed.

4. NAACP - Redistricting

Commissioner Moore read aloud a copy of a letter from the President of the NAACP dated June 17, 2002 in reference to the City's redistricting process. It indicated that the NAACP had been included in the redistricting processes at the County, State and federal levels, but it did not feel the City had done so. The NAACP felt it had been assigned a narrowly defined time period to access to equipment, staff and consultants, and that the City had failed to share the methodology used by the consultant to draw the district lines. Therefore, the NAACP did not feel it had any way of knowing if the districts drawn were in keeping with guidelines.

Commissioner Moore said he had always spoken in opposition to the methods selected for this process because they did not give the public a viable means of designing the districts. He pointed out that the NAACP was the nation's leader in civil rights, and it was criticizing the City. Commissioner Moore understood staff to have indicated that it would cost \$50,000 to make the necessary equipment available to the public, and he felt that was a reasonable price to pay. He urged the Commission to reconsider its position on this subject so any organization could have the tools to move district lines and consider different boundaries from remote computer locations.

Commissioner Moore understood the other Commissioners had not yet had a chance to read the correspondence from the NAACP, and he hoped some method of greater public accessibility to this process could be considered on July 2, 2002. Mr. Pete Witschen, Assistant City Manager, said he had not received a copy of the letter, but he would contact the NAACP to see if some assistance or alternative could be provided in the meantime. He agreed there was some technology available, but it was reasonably expensive, and the Commission had asked staff to provide more time slots for the public. Mr. Witschen said he could provide a report on the various alternatives within the next few days. Commissioner Moore wanted Fort Lauderdale to have as open a process as possible when it came to electing its officials.

Mayor Naugle asked Commissioner Moore about the type of equipment he was referring to, and Commissioner Moore believed a disc or access to a web site could be utilized. Mayor Naugle asked if the NAACP had been given an outline of what was being offered as had other groups that had submitted a map. He suggested that the NAACP also be provided something in writing indicating that the City was offering everyone the same services. Mayor Naugle asked if there had been any other complaints. Mr. Witschen was not aware of any, but he would check further.

Mayor Naugle said he had done a lot of maps himself by hand, and it was not very hard to do. He did not think a computer was necessarily important. Commissioner Moore preferred to use up-to-date technology like other communities. Mayor Naugle asked if any other group had been given anything that the NAACP had not, and Mr. Witschen replied that everyone had been given equal access to the equipment and services.

**Action:** As discussed.

5. Haiti Flooding Relief Effort

Commissioner Moore had a copy of a fax sent to the Mayor on June 13, 2002, and there was no indication that it had been circulated to the rest of the Commission. He explained that the correspondence was an urgent appeal to the City for relief efforts to help flood victims on the south coast of Haiti. He hoped the City would do everything possible to assist.

Mayor Naugle suggested a public service announcement of the items needed and collect them at fire stations. Commissioner Moore agreed he wanted to use the Public Information Office to help gather donations of water, rice, beans, blankets, and other supplies. Mayor Naugle suggested calls to shipping companies for help in delivering the materials and Congressmen to help with U.S. Customs.

**Action:** Approved as discussed.

6. Sweeting Estates

Commissioner Moore understood an issue would soon be presented to the Board of Adjustment related to the Sweeting Estates. It seemed that area residents had received some inaccurate information about the density of the site, and he asked staff to supply him with the names of individuals in attendance at the Board meeting. He wanted to make sure everyone knew that this was not an eminent domain effort or demolition, but actually a down zoning of what could be done on the platted property.

**Action:** As discussed.

7. Kids Voting Broward

Commissioner Smith said he intended to present a motion at the Regular Meeting to provide \$2,500 to Kids Voting Broward, which was an organization that taught kids about voting. Commissioner Hutchinson believed the organization had requested \$4,400, and she encouraged support of the full amount.

**Action:** Formal action to be taken at Regular Meeting.

8. Metropolitan Planning Organization (MPO)

Commissioner Smith reported that the City had maintained 2 voting seats on the MPO because the County Attorney had found some language indicating that the "center city" of any County had to approve any change in the composition of the MPO that, in this case, was Fort Lauderdale.

**Action:** As discussed.

9. Shopping Cart Ordinance

Commissioner Hutchinson inquired about the status of the shopping cart ordinance and asked if it would be presented on July 2, 2002. Mr. Kisela believed Lisa Hodapp had been working on that ordinance. The City Attorney said that Ms. Hodapp had resigned, and all of her work should have been reassigned. He did not know the status right now, and Commissioner Hutchinson asked that it be scheduled for July 16, 2002. Commissioner Katz asked for an update of the proposed State legislation in this regard as well.

**Action:** Subject to be placed on July 16, 2002 agenda.

10. Marina Boulevard Signs

Commissioner Hutchinson requested a status report on the Marina Boulevard signs on State Road 84.

**Action:** Report to be provided.

11. Fire Station No. 47

Commissioner Hutchinson said she had become aware of a situation at Fire Station No. 47, which was not acceptable. One issue was the septic tank, with inoperable toilets and showers that had been capped off. She had seen work orders dating back to 2000, and none of that work had been completed, and firefighters had to live under substandard conditions. In addition, there was a termite problem, and Commissioner Hutchinson felt the situation should be corrected or the station but down, although this station would be important to annexed areas. She requested a plan and a timeline.

Mr. Kisela stated that the septic tank could no longer handle the capacity, and the station would be connected to the sanitary sewer system by August 1, 2002. He agreed the facility needed some major work, and it had been originally scheduled for the future, but the schedule had been moved up a year. Commissioner Hutchinson wanted the condition of the building, particularly as to the termites, addressed as soon as possible.

**Action:** As discussed.

12. City EMS Coalition

Commissioner Moore said he was the City's representative on the EMS Coalition, and the Charter Review Board had recommended creation of an advisory council for EMS services. The Coalition wanted to know the City's position on various EMS matters, and it had been agreed that the Coalition's first priority was communications and closest unit response. He explained that the recommendation from the Charter Review Board was vague, so the Coalition was opposed. He stated that the League of Cities had worked diligently to have some things addressed, but it still did not hit the target.

Commissioner Moore reported that the City of Pompano Beach had adopted a resolution stating that the Coalition was making an effort to evaluate the process, and he hoped consensus could be built around the position of opposing the current proposal and not taking action at this time. There was consensus to support that position.

**Action:** As discussed.

Meeting adjourned at 10:03 p.m.

NOTE: A MECHANICAL RECORDING HAS BEEN MADE OF THE FOREGOING PROCEEDINGS, OF WHICH THESE MINUTES ARE A PART, AND IS ON FILE IN THE OFFICE OF THE CITY CLERK FOR A PERIOD OF TWO YEARS.